

Message Text

SECRET

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42

ACTION SS-30

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P R 181450Z JUL 74

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 7165

INFO AMEMBASSY MOSCOW

S E C R E T GENEVA 4575

EXDIS

FOR SONNENFELDT AND HARTMAN FROM SHERER

MOSCOW FOR AMBASSADOR STOESSEL

E.O. 11652: GDS

TAGS: PFOR

SUBJ: CSCE: PACKAGE DEAL FOR RESOLUTION OF

BASKET III PREAMBLE PROBLEM

REF: GENEVA 4526

1. FOLLOWING EVENTS DESCRIBED REFTEL, NEUTRALS HAVE REVIEWED THEIR PACKAGE DEAL AS SET OUT IN GENEVA 4435. AT INFORMAL MEETING JULY 18 WITH FRENCH REP (REPRESENTING EC-NINE), US AND CANADA THEY PRESENTED REDRAFTED VERSION OF PARA 1B LANGUAGE FOR INSERTION IN TENTH PRINCIPLE. TEXT OF NEW VERSION FOLLOWS: BEGIN TEXT: (PRECEDING SENTENCE/ SENTENCES). THEY WILL IN EXERCISING THEIR SOVEREIGN RIGHTS, INCLUDING THE RIGHT TO DETERMINE THEIR LAWS AND REGULATIONS, ACT IN CONFORMITY WITH THEIR LEGAL OBLIGATIONS UNDER INTERNATIONAL LAW. THEY WILL FURTHERMORE ACT IN ACCORDANCE WITH THE PROVISIONS OF THE FINAL DOCUMENT/DOCUMENTS OF THE CSCE. END TEXT.

2. NEW TEXT APPEARS TO BE AN ATTEMPT TO TAKE ACCOUNT OF POINTS RAISED BY SOVIET TEXT TRANSMITTED REFTEL. I MAY POSE TWO PROBLEMS ON WHICH WE WOULD APPRECIATE DEPARTMENT'S

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GUIDANCE: (1) PHRASE "ACT IN CONFORMITY WITH THEIR LEGAL

OBLIGATIONS UNDER INTERNATIONAL LAW" SEEMS TO IMPLY THAT THERE ARE OTHER OBLIGATIONS UNDER INTERNATIONAL LAW WHICH ARE NOT LEGAL AND WHICH CONFERENCE PARTICIPANTS WOULD BE FREE TO IGNORE. WE FEEL IT CAN BE ARGUED, HOWEVER, THAT ALL OBLIGATIONS UNDER INTERNATIONAL LAW ARE BY DEFINITION "LEGAL." ADDITION OF WORD "LEGAL" APPARENTLY IS TO TAKE CARE OF SOVIET VIEW THAT INTERNATIONAL LAW ONLY BECOMES BINDING (OR "LEGAL") WHEN IT IS ADOPTED THROUGH SOME GOVERNMENTAL ACT. (2) SECOND SENTENCE, ESPECIALLY APPEARING UNDER PRINCIPLE OF "FULFILLMENT IN GOOD FAITH OF OBLIGATIONS UNDER INTERNATIONAL LAW" MAY IMPLY SOME KIND OF LEGAL STATUS FOR FINAL CSCE DOCUMENTS. FRG REP HAS POINTED THIS OUT TO US, BUT SOME OTHER ALLIED DELEGATIONS, AND NEUTRALS, HAVE SUGGESTED THAT THIS SENTENCE COULD APPEAR ELSEWHERE IN THE FINAL CSCE DOCUMENTS, FOR EXAMPLE IN THE CONCLUDING PHRASES OF THE LIST OF PRINCIPLES, OR JUST ABOVE THE PLACEMENT OF THE SIGNATURES ON THE FINAL DOCUMENT. EVEN IF IT APPEARED IN THE TENTH PRINCIPLE, WE WOULD HOPE THAT NO SUCH IMPLICATION WOULD ARISE IF IN THE PREAMBLE TO THE PRINCIPLES IT IS MADE CLEAR THAT PRINCIPLES, INCLUDING THIS SENTENCE, ARE ONLY TO "GUIDE" RELATIONS AMONG STATES.

3. IN MAKING ADDITIONAL MINOR SUGGESTIONS FOR IMPROVEMENT, FRENCH REP (SPEAKING FOR EC-NINE) SAID TENTH PRINCIPLE WOULD ALSO HAVE TO CONTAIN A DISCLAIMER ON PREVIOUSLY UNDERTAKEN TREATIES AND AGREEMENTS, AND LANGUAGE OF PARA 1B SHOULD NOT PREJUDICE THIS. FRENCH REP SUMMED UP BY ENCOURAGING NEUTRALS TO TABLE THEIR PROPOSAL AT AN EARLY DATE. US AND CANADIAN REPS TOOK THE SAME LINE.

4. NEUTRALS INDICATED THEY WOULD DISCUSS NEW VERSION OF PACKAGE DEAL WITH SOVIETS, AND WOULD THEN DETERMINE THEIR COURSE OF ACTION. IF TEXT HAS TO BE CHANGED FURTHER TO SATISFY SOVIETS, NEUTRALS WILL MEET AGAIN WITH INTERESTED WESTERN COUNTRIES. OTHERWISE, THEY WILL GO AHEAD WITH TABLING AT FIRST OCCASION.

5. IN VIEW OF POSSIBILITY THAT THIS SITUATION MAY DEVELOP QUICKLY, WOULD APPRECIATE GUIDANCE REQUESTED ABOVE AS SOON
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AS POSSIBLE.DALE

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Message Attributes

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Draft Date: 18 JUL 1974
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